

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2001-02

[session year]

Assembly

[Assembly, Senate or Joint]

Committee on
Campaigns &
Elections
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

➤ **01hr_ab0801_AC-CE_pt01**

➤ Miscellaneous ... Misc

➤ **



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON CAMPAIGNS AND ELECTIONS

FROM: Robert J. Conlin, Senior Staff Attorney *RJC*

RE: 2001 Assembly Bill 801, Relating to Campaign Financing

DATE: February 14, 2002

This memorandum summarizes the substantive provisions of 2001 Assembly Bill 801. Assembly Bill 801 was introduced by Representative Travis and others; and was cosponsored by Senator Ellis and others. The bill was referred to the Assembly Committee on Campaigns and Elections, which has scheduled a hearing on the bill for February 14, 2002.

The engrossed bill does the following:

A. REGISTRATION AND REPORTING REQUIREMENTS

- 4596
- **Independent Disbursements.** Provides that a special interest committee, other than a conduit, that intends to receive any contribution, make any disbursement, or incur any obligation for the purpose of independently advocating the election or defeat of a candidate for statewide or legislative office, or for the purpose of making certain communications, must report the name of each candidate who is supported or whose opponent is opposed and the total amount of contributions to be received, disbursements to be made, and obligations to be incurred for these purposes during the 21-day period *following* the date on which the report is due to be filed. [A communication to which the requirements apply is a communication made by means of one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a candidate to appear on the ballot at the election, a reference to an office to be filled at the election, or a reference to a political party.] The reports must be filed on the 63rd, 42nd and 21st days prior to the election. In addition, the committee also must report the amount and date of each contribution received, disbursement made, or obligation incurred regarding its independent activities during the 21-day period *ending* on the 39th and 18th days prior to the election.

A violation of the reporting requirements may result in a forfeiture of not more than \$500 per day for each day of the continued violation. Also, if a disbursement is made, or an obligation to make a disbursement is incurred, in an amount or value differing from the amount reported, then specified forfeitures must be paid. For example, if the actual amount or value differs from the reported figures by more than 5% but not more than 10% cumulatively, the violator must forfeit four times the amount or value of the difference. If the difference is more than 10% but not more than 15% cumulatively, the violator must forfeit six times the amount or value of the difference. If the difference is greater than these amounts, the violator must forfeit eight times the amount of the difference. [SECS. 45, 53, 54 and 124.]

"Issue Ad" Registration. Imposes registration and financial reporting requirements upon individuals or groups that make a communication during the period beginning on the 60th day preceding an election and ending on the date of the election that includes a reference to a candidate appearing on the ballot at that election, a reference to an office to be filled at that election, or a reference to a political party. [SEC. 12. Generally, under current law, individuals who accept contributions, organizations which make or accept contributions, and individuals who or organizations which incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.]

- **Referenda Reports.** Requires an individual who accepts contributions, incurs obligations or makes disbursements with respect to a referendum, or a political group which similarly makes or accepts contributions, incurs obligations or makes disbursements, in excess of \$100 to file a statement with the appropriate filing officer providing registration information such as the name of the individual or group, the name of the treasurer, the nature of the referenda, and other identifying information. [SECS. 14, 16 and 63.]
- **Candidate's Identity.** Requires the registration statement of a personal campaign committee to identify the candidate on whose behalf the committee was formed and the office that the candidate seeks. [SEC. 20.]
- **Phone, Fax or Email of a Candidate.** Requires the registration statement of a candidate or personal campaign committee to include the telephone number and fax number or email address, if any, at which the candidate may be contacted. [SEC. 22.]
- **Exemption From Independent Disbursement Report--State Office.** Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *state office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$1,000 in a calendar year and does not anticipate accepting a contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If revocation is not timely made, it is considered a violation of false reporting statutes. In contrast to an independent expenditure, an independent

disbursement refers to an expenditure that is made clearly for the purpose of opposing the election of a grant recipient, or for the purpose of supporting a certified opponent of that candidate, when none of the disbursements are made in cooperation with the grant recipient's opponent. [SEC. 30.]

- **Exemption From Independent Disbursement Report--Local Office.** Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for *local office* but who or which does not anticipate accepting contributions or making disbursements in excess of \$100 in a calendar year and does not anticipate accepting any contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If the revocation is not timely made, it is considered a violation of the false reporting statutes. [SEC. 30.]
- **24-Hour Reporting of Obligations.** Extends the 24-hour reporting requirement under current law for disbursements in excess of \$20 made within the last 15 days prior to an election to include the reporting of incurred obligations over \$20 in that time period. [SEC. 44.]
- **24-Hour Reporting for Candidates not Accepting Public Financing.** Provides that any candidate for Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Representative or Senator who does not accept a grant from the Wisconsin Election Campaign Fund (Fund) and who makes a disbursement after accumulating cash or who makes disbursements exceeding a combined total of 75% of the disbursement limit for the applicable office, must file daily reports with the Elections Board and each candidate for that office, by email or fax, on each day beginning with that date or the seventh day after the primary election was held (or would have been held), whichever is later. Each report must contain information pertaining to each disbursement made by the candidate or committee and must be filed no later than 24 hours after the disbursement is made. If no email or fax number is available, the report must be filed at the address shown for the candidate. [SEC. 46.]
- **Timely Reports.** Provides that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the third day before the due date. [SEC. 57.]

B. CONTRIBUTIONS

- **Individual Contribution Limits.** Retains the individual contribution limits under current law for certain offices as follows:

Prior Restraint

1500⁰⁰

	<i>Current</i>	<i>Bill</i>
Governor	\$10,000	\$10,000
Lieutenant Governor	\$10,000	\$10,000
Attorney General	\$10,000	\$10,000
Secretary of State	\$10,000	\$10,000
Treasurer	\$10,000	\$10,000
Superintendent	\$10,000	\$10,000
Justice	\$10,000	\$10,000
Senator	\$1,000	\$1,000
Representative	\$500	\$500

- **Committee Contribution Limits.** Modifies committee contribution limits for certain offices as follows:

	<i>Current</i>	<i>Bill</i>
Governor	\$43,128	\$45,000
Lieutenant Governor	\$12,939	\$15,000
Attorney General	\$21,560	\$25,000
Secretary of State	\$8,625	\$10,000
Treasurer	\$8,625	\$10,000
Superintendent	\$8,625	\$10,000
Justice	\$8,625	\$10,000
Senator	\$1,000	\$1,000
Representative	\$500	\$500

[SECS. 71 and 72.]

- **Overall Individual Contribution Limits.** Retains the overall individual contribution limit at \$10,000 per year. [SEC. 73.]
- **Contributor Information.** Requires a campaign treasurer of a registrant that receives a contribution of money from an individual who has contributed over \$100 to obtain information relating to the person's occupation and principal place of employment before depositing the contribution. If the treasurer does not obtain this information, the contribution must be returned. [SEC. 41.]
- **Committee Contributions in General.** Provides, for the following state offices, that an individual who is a candidate may not receive or accept more than the following fixed dollar amounts from political party committees or all committees other than political party committees:

	<i>Political Parties</i>	<i>Other Committees</i>
Governor	\$400,000	\$485,190
Lieutenant Governor	\$100,000	\$145,564
Attorney General	\$100,000	\$242,550
Secretary of State	\$50,000	\$97,031
Treasurer	\$50,000	\$97,031
Superintendent	\$50,000	\$97,031
Justice	\$50,000	\$97,031
Senator	\$24,000	\$15,525
Representative	\$12,000	\$7,763

For all other state or local offices, the bill provides that a candidate may not receive and accept more than 20% of the value of the total disbursement level for the office for which he or she is a candidate during any primary or election campaign combined from all political party committees. Further, no such candidate may receive and accept more than 25% of the value of the total disbursement level combined from all committees other than political party committees subject to a filing requirement. [See SECS. 76 to 79. Current law provides that a candidate may not receive more than 65% of the disbursement level from all political party committees and no more than 45% of the disbursement level combined from all committees other than political party committees.]

- **Committee Contributions to Publicly Financed Candidates.** Prohibits a candidate or personal campaign committee who applies for a grant from the Fund from accepting a

contribution from a committee other than a political party committee. [SECS. 65, 103 and 109.]

- **Contributions to Incumbents During Legislative Session.** Prohibits contributions to any incumbent partisan state elective official for the purpose of promoting that official's nomination for reelection to the office held by the official during the period beginning on the first Monday in January of odd-numbered years and ending on the date of enactment of the biennial budget act. [SEC. 67.]
- **Contributions to Political Parties.** Increases, for political parties, the amount they may receive in a biennium from all committees, excluding transfers between party committees of the party, from \$150,000 to \$450,000. [SEC. 74.]
- **Political Party Limits.** Increases the maximum amount a political party may receive from a committee, exclusive of political party committees, and increases the amount a committee, other than a political party committee, can contribute to a political party in a calendar year from \$6,000 to \$18,000. [SEC. 74.]
- **PAC to PAC Transfers.** Prohibits a committee from making a contribution to any other committee, except a political party committee, personal campaign or support committee. However, allows a committee affiliated with a labor organization to make a contribution to any other committee that is affiliated with the same labor organization. [SEC. 75.]
- **Solicitation of Contributions.** Prohibits a state elective official and his or her personal campaign committee from soliciting a lobbyist or principal to arrange for another person to make a campaign contribution to that official or personal campaign committee or to another elective state official or the personal campaign of that official. [SEC. 127.]
- **Pay-to-Play.** Prohibits a state or local elected official from, directly or by means of an agent, giving, or offering or promising to give, or withholding, or offering or promising to withhold, his or her vote or influence, or promising to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law or any person making a communication that contains a reference to a clearly identified state or local elected official or to a candidate for such an office. The bill also provides for forfeitures for violations of the "pay-to-play" prohibition. [SECS. 128 to 139.]

C. DISBURSEMENTS

- **Disbursement Limits.** Revises the disbursement levels for the following offices:

	<i>Current</i>	<i>Bill</i>
Governor	\$1,078,200	\$2,000,000
Lieutenant Governor	\$323,475	\$500,000
Attorney General	\$539,000	\$700,000
Secretary of State	\$215,625	\$250,000
Treasurer	\$215,625	\$250,000
Superintendent	\$215,625	\$250,000
Justice	\$215,625	\$300,000
Senator	\$34,500	\$100,000
Representative	\$17,250	\$50,000

[SECS. 85 to 87.]

- **Competitive Primary.** Provides that the total disbursement limitation for a candidate whose name appears on the ballot at a primary election will be increased to 120% of the normal disbursement level for that office if all of the following conditions occur:
 1. The candidate receives less than twice as many votes at that election as another candidate who is within the same political party and who is running for the same office.
 2. The candidate has an opponent in the general or special election who received at least 6% of the votes cast in the primary.

[SEC. 88.]

- **Voluntary Limits.** Repeals the provision authorizing voluntary disbursement limitations for candidates who do not accept a grant from the Fund. [SECS. 90 and 108.]
- **Limits Increased for Grants.** Provides that the disbursement limitation for a candidate who receives certain additional grants from the fund are increased by the amount of those grants. [SEC. 92.]
- **Cost-of-Living Adjustment.** Creates a cost-of-living adjustment for the disbursement limitations, which is to be determined by rule by the Elections Board. The board must determine the percentage difference between the Consumer Price Index for the 12-month period ending on December 31 of each odd-numbered year and the Consumer Price Index for calendar year 2003. Each biennium the Elections Board is required to adjust the

disbursement limitations by that percentage to reflect any difference, rounded to the nearest multiple of \$25, which shall be in effect until a subsequent rule is promulgated. Such determinations by the Elections Board may be promulgated as emergency rules. [SECS. 84 and 93.]

D. PUBLIC FINANCING

- **Grant Amounts.** Retains the grant amount available to a candidate at the current level of 45% of the disbursement level for a general election. An additional 10% of the disbursement level may be awarded for an eligible primary campaign. To receive the additional 10%, a candidate who accepts a grant must have won a contested primary and submitted nomination papers containing the following number of valid signatures for the office he or she seeks:

<i>Office</i>	<i>Number of Signatures</i>
Statewide office	Not less than 4,000 electors
Senator	Not less than 800 electors
Representative	Not less than 400 electors

[SECS. 115 and 119.]

- **Extra Grant Based on Opposition.** Provides that in the case of a candidate who accepts a grant, and is opposed by one or more candidates who do not accept a grant and who make total disbursements exceeding the disbursement level for the office, the Elections Board must make an additional grant to the candidate in an amount equal to the total amount or value of the disbursements made by the opposing candidate or candidates exceeding the disbursement levels for that office. [SEC. 120.]
- **Extra Grant Based on Independent Disbursements.** Provides that if a candidate who accepts a grant has independent disbursements made against him or her or if the independent disbursements are made on behalf of the candidate's opponent, the Elections Board must make an additional grant to the candidate when the expenditures exceed 10% of the disbursement limit for the office. The amount of the additional grant must equal the total of the independent disbursements made. Again, the disbursements include a disbursement made for a communication made by one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of the election and that includes a reference to a candidate, a reference to an office to be filled at that election, or a reference to a political party. [SECS. 12, 45 and 120.]
- **Extra Grant Based on Contributions Received by Opposing Committee.** Provides that if a candidate who accepts a grant and is opposed by a candidate, and if a committee intends to receive or receives any contribution or contributions that are intended to be used or that are used to oppose the election of the candidate who accepts a grant or to support his or her opponent without cooperation or consultation with the opponent, then the Elections Board must make an additional grant to the candidate who accepts a grant in an amount equal to the

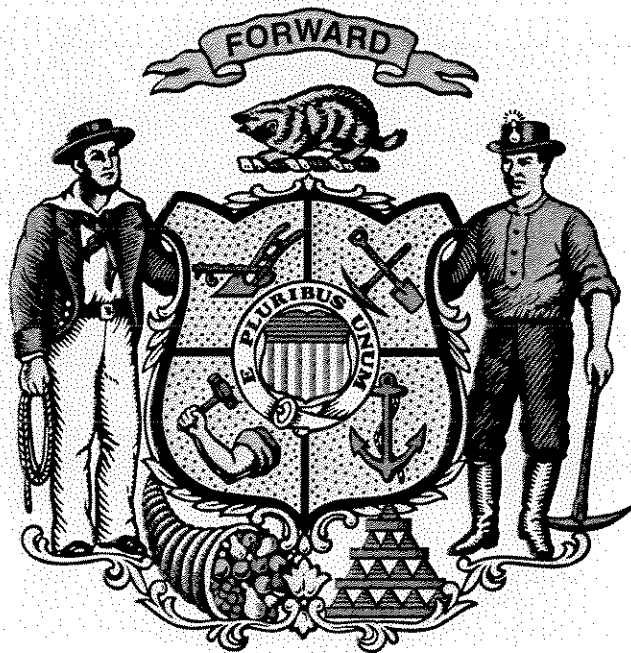
total amount of contributions received by the committee for the purpose of advocating the election of the opponent or for opposing the election of the candidate who accepts a grant. [SEC. 120.]

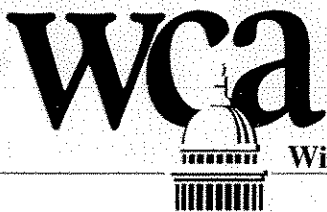
- **Increased Checkoff.** Increases the income tax "checkoff" from \$1 to \$5 and allows the individual making such designation to indicate whether the amount shall be placed in the Fund's "general account" or "political party account." If a designation does not indicate which account, the "general account" will be credited. [SEC. 143.]
- **Donations to the Fund.** Authorizes contributions that are required to be returned or donated to charitable organizations or to the common school fund to be transferred to the Fund. [For example, SECS. 8, 28 and 37.]
- **Party Accounts.** Establishes a "general account" and a "political party account" under the Fund. [SECS. 100 to 102, 111, 112, 114 and 123.]
- **Limits on Committee Contributions.** Requires applicants for a grant to file a sworn statement that he or she has not accepted and retained any contributions from committees, other than political party committees, and that he or she will not accept any, unless it is determined that he or she is ineligible for a grant. [SEC. 103.]
- **Qualifying Fundraising.** Requires an applicant for a grant to have raised at least 3% of the disbursement level applicable to the office sought in contributions of \$100 or less from individuals who reside in the state, and, for a legislative candidate, by individuals at least 50% of whom reside in a county having territory within the legislative district for which the candidate seeks office. [SEC. 104.]
- **Applications.** Repeals the current authority for an eligible candidate to withdraw his or her public financing application. [SEC. 107.]
- **Exceeding Disbursement Limit.** Repeals the current law provisions which allow a candidate who receives a grant to exceed the disbursement limit if his or her opponent does not accept a grant. [SEC. 108.]
- **Return of Committee Contribution.** Requires a candidate applying for a grant to return any contributions from committees, other than the political party committees, before filing an application for the grant. [SEC. 109.]
- **Designated Checkoff.** Allows individuals to designate their income tax checkoff for a political party and requires such designated funds to go to a "political party" account. Moneys from such an account are apportioned to eligible candidates representing the party who qualify for grants. [SEC. 143.]
- **Supplemental Account.** Provides that if there are insufficient funds in the Fund, the State Treasurer is required to supplement the Fund from a sum sufficient GPR appropriation. [SEC. 114.]

- **Electronic Transfer.** Requires the State Treasurer to electronically transfer any supplemental grants a candidate qualifies for to the candidate's campaign depository account if the Treasurer has the necessary account information. [SEC. 116.]
- **Administration.** Requires the Elections Board to certify to the Department of Revenue (DOR) in each even-numbered year information relevant to eligible political parties and candidates for purposes of administering the Fund. [SEC. 123.]

E. OTHER

- **Conduits.** Limits conduit transfers to amounts not to exceed committee contributions. [SECS. 69 and 70.]
- **Legislative Campaign Committees.** Eliminates the special status of legislative campaign committees. [For example, SEC. 11.]
- **Public Information.** Creates a public information account, which is funded by up to 5% of the Fund, to be used by the Elections Board to provide public information on the income tax "checkoff" and the purpose and effect of public campaign financing. The Elections Board is required to prepare an easily understood description of the purposes and effect of the checkoff and public financing. [SEC. 110.]
- **Local Prosecutions.** Authorizes the District Attorney of any county which has territory within the jurisdiction or district within which a candidate seeks office to bring an action for violation of campaign finance laws alleged to have been committed by the candidate. [SEC. 125.]
- **Tax Information.** Requires DOR to place public information materials concerning the tax checkoff prepared by the Elections Board in tax return instructions. [SEC. 144.]
- **Declaratory Actions.** Authorizes any person who proposes to publish, disseminate or broadcast any communication, or any person who causes such publication, dissemination or broadcast, to commence a declaratory action to determine the application of the registration requirements under the campaign finance law to that person. [SEC. 145.]
- **Nonseverability.** Provides that if a court finds unconstitutional any part of the process by which supplemental grants are made in response to an opponent's expenditures, the entire act is void. Further, if a court finds unconstitutional any part of the process by which supplemental grants are made in response to independent disbursements, then that process is void in its entirety. [SEC. 146.]
- **Board Staff.** Increases the full-time equivalent staff positions at the Elections Board to add one campaign finance investigator and one auditor and provide \$76,100 in fiscal year 2001-02 and \$85,100 for fiscal year 2002-03 for salary, fringe and support benefits. [SEC. 147.]

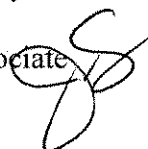




Wisconsin Counties Association

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Campaigns and Elections

FROM: Jennifer Sunstrom, Legislative Associate 

DATE: February 14, 2002

SUBJECT: Assembly Bill 801 - Campaign Finance Reform

The Wisconsin Counties Association (WCA) appreciates the opportunity to present comments on AB 801 which seeks to make comprehensive changes to Wisconsin's campaign finance laws.

The costs of running campaigns for state elections has increased significantly over the last few years. We believe that the increased burden on candidates to raise campaign contributions places special interest groups in a position of undue power relative not only to local governments but also to candidates for state office as well. For this reason, the Wisconsin Counties Association's Board of Directors decided to sponsor an advisory referendum that asked the people if Wisconsin's campaign finance laws should be reformed. On November 7, 2000, over 90% of the people in 56 of Wisconsin's counties voted that they wanted the legislature to enact campaign finance reform that would create a more fair system of campaign operations.

The language agreed upon by our Board of Directors addressed three main issues: spending limits; stricter contribution limits; and prompt reporting requirements. The question was specifically broad so that a clear message would be sent to the legislature and the administration that the people of Wisconsin want reform without limiting that reform to one plan over another.

WCA believes that AB 801 meets this intent. By incorporating elements from proposals offered by both Republicans and Democrats, AB 801 provides an effective middle ground from which legislators can work.

Although WCA supports AB 801, we are not opposed to changes that are necessary to reach a compromise that will garner bipartisan support. We encourage both sides of the aisle to work together to strike the proper balance and will continue to give our support and assistance throughout the legislative process.

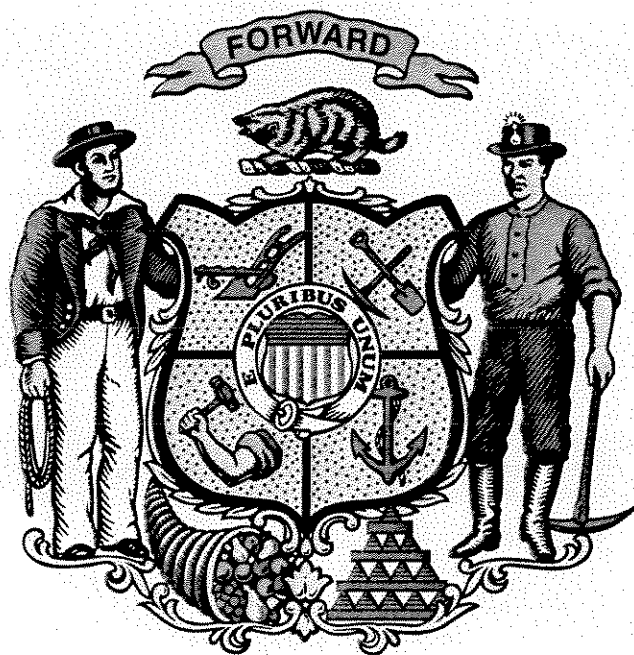
Thank you for considering our comments.

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716 ♦ 608/224-5330 ♦ 800/922-1993 ♦ Fax 608/224-5325

Mark D. O'Connell, Executive Director

Craig M. Thompson, Legislative Director

Lynda L. Bradstreet, Administrative Director



WISCONSIN EDUCATION ASSOCIATION COUNCIL

Affiliated with the National Education Association

*Every kid
deserves a
Great School!*

MEMORANDUM

TO: Members of the Assembly Campaigns and Elections Committee

FROM: John Stocks, Assistant Executive Director for Public Affairs
Wisconsin Education Association Council

RE: **Assembly Bill 801/Senate Bill 104**

DATE: February 17, 2002

The Wisconsin Education Association Council (WEAC) encourages you to:

Oppose Assembly Bill 801/Senate Bill 104

The Wisconsin Education Association Council (WEAC) supports campaign finance reforms that are comprehensive, equitable, and practical. WEAC further believes the reforms must respect the constitutional rights of Wisconsin citizens.

WEAC **opposes Assembly Bill 801/Senate Bill 104** because it fails to meet equitable and practical standards, and is constitutionally unsound.

Redefining "Political Purpose" to Include Issue Ads is Blatantly Unconstitutional.

The bill states that any communication during the 60 days before an election that includes a reference to a candidate, an office to be filled, or a political party, is deemed to be for a "political purpose." This in turn would mean that all such communications, regardless of whether they include "express advocacy," would be subject to full registration and reporting under Chapter 11. Under *Buckley v. Valeo* and *WMC v. Elections Board*, this wholesale attempt to regulate issue ads is unconstitutional.

This proposal would also result in a ban on the use of corporate money for issue ads within 60 days of an election. Corporate groups in Wisconsin have argued that such a comprehensive ban would violate first amendment and equal protection principles.

Various independent groups have expressed their support for a much more limited attempt to regulate issue ads, and have supported minimal reporting requirements designed solely to provide information necessary to provide additional funding for candidates accepting public grant money. The original substitute amendment to SB 104 took this approach with respect to issue ads, but included additional and unconstitutional pre-reporting requirements on independent express advocacy.

Stan Johnson, President
Michael A. Butera, Executive Director

The Pre-Reporting Requirements in this Proposal will be Thrown Out when Challenged in Court.

Under AB 801/SB 104 all groups engaging in independent spending within 60 days of an election are subject to pre-reporting. The bill will require "pre-reporting" of all "intended" disbursements and contributions for the three 21-day periods leading up to an election. (Section 45, Page 33-34) In other words groups will be required to publicly disclose their intended spending and their intended contributions for the next three weeks. This idea is unworkable and blatantly unconstitutional.

The Supreme Court has held time and again that the First Amendment protects political speech and that "prior restraints" are illegal. (For example, see *Buckley v. Valeo* and *Southeastern Promotions v. Conrad*). Not only would this bill require an independent group to disclose its political plans and intended contributions for the next three weeks, it would impose severe penalties if the group changes its mind on how much or where to spend money. In other words the groups will be handcuffed for three weeks at a time in exercising their First Amendment rights.

For example, a registered PAC would be required to file a report three weeks before the election listing each and every contribution and disbursement it intended to make up to the date of the election. This "3 week plan" would be binding on the group. If the group decided to make an additional contribution or disbursement in the final week, it would be subject to severe penalties, up to six times the amount of the disbursement. (Section 124, Page 64-65)

This kind of governmental control over independent spending is illegal.

Campaigns change on a daily basis in the final few months before an election. Decisions about where, when and how many political communications are made by the candidates, by independent groups and by the press. The strength of the First Amendment lies in its protection of our ability to freely discuss issues in public and to keep voters fully informed. There is no need, and we should not presume to, set strict time lines and require certain groups to telegraph their political communications three weeks ahead of time.

If we are serious about enacting campaign finance reform and want to pass a bill that has a chance of being upheld in the courts, we need to get away from pre-reporting.

In short, the pre-reporting requirements for independent spending by groups that already report are unnecessary and unconstitutional.

Requiring Reporting from the Date of Disbursement, Rather Than the Date of the Communication, Is Unworkable.

Under the bill, candidates receiving public financing could receive funding bumps based on independent disbursements or potential disbursements that must be reported on the 63rd, 42nd, and 21st days prior to the election. In addition to the constitutional problems outlined above, this procedure could allow for increased financing where no communication was ever made. Due to the nature of public media and the requirements for pre-paid airtime, often a "disbursement" will be made long before any communication, and ultimately no communication will occur.

For this reason, the WEAC supported Impartial Justice legislation was carefully written to require disclosure only after a "communication" is made.

This Bill leaves Possible Loopholes for Issue Ad Reporting

Under AB 801/SB 104, issue ads would appear to subject to conflicting reporting requirements.

First, because issue ads in the final 60 days would be considered spending for a "political purpose," groups engaged in such spending would be required to register under 11.05(1) and fully report under 11.06. Section 11.06 requires full reporting of contribution sources, contributions and disbursements.

However, section 11.06(2), which is not substantively altered by AB 801/SB 104, exempts from reporting any "disbursements" by groups "not primarily organized for a political purpose" if the disbursement is not made to "expressly advocate" the election or defeat of a clearly identified candidate. Under this exception, if an issue ad group believed it was not primarily organized for a political purpose, it would not be required to report disbursements for issue ads. This in turn would mean there could be no funding bump based on such spending.

Second, under the amended bill, new section 11.12(6) c would require pre-reporting of all intended disbursements if they were intended for a political purpose. This would require pre-reporting of all disbursements for communications that include a reference to a candidate, office or political party within 60 days of an election, regardless of whether intended to "expressly advocate the election or defeat of a candidate.

Therefore under the bill, issue ad groups would be subject to conflicting reporting requirements. On the one hand, disbursements not intended as express advocacy appear to be exempt from general reporting; on the other hand such disbursements are subject to strict pre-reporting requirements under a separate statutory section. It is unclear which of these statutes would be controlling. At a minimum this creates a statutory conflict and a potential loophole that could completely change the intended structure of the funding increases for independent spending.

Reporting by Candidates Not Receiving Taxpayer Funding can be Seen as “Coercive” and be Struck Down as Unconstitutional.

The reporting requirements for candidates not taking taxpayer funding are also plainly unconstitutional. The law cannot impose requirements to force a candidate to accept public money. This bill would force a candidate who doesn't take a public grant to file daily reports with the Elections Board, and to notify the opposing candidate of each and every disbursement. (Section 46, Page 34) Therefore if a candidate were to choose not to have the taxpayers fund their campaign they would be forced to disclose to their opponent all of their intended campaign activities (mailings, TV, radio spots). This provision forces a candidate who doesn't take public money to disclose their entire campaign plan, while candidates receiving taxpayer funding are not required to reveal their campaign strategy.

This system would provide an obvious unfair advantage to a candidate receiving taxpayer funding over a candidate that doesn't receive taxpayer funding. It cannot be justified, and it will be struck down as unconstitutional.

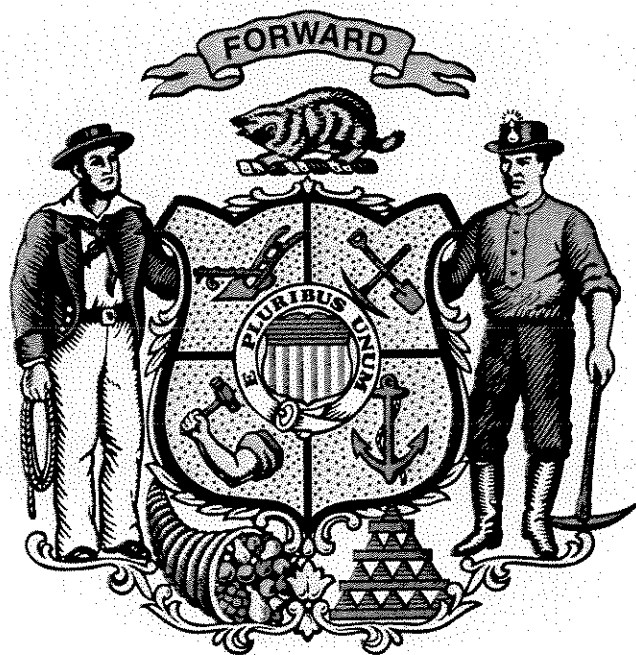
The Nonseverability Clause in the Bill Could Drastically Change the Intent of the Legislation.

The Severability clause included in the bill is faulty. It could leave legislation in place that was not intended by the legislature.

Under section 146, the Bill states that any of the provisions relating to issue ads, pre-reporting, PAC-to-PAC limits or funding bumps for independent spending are held unconstitutional, all of those provisions will be struck down. (Section 146, Page 73). On the other hand, if the provisions allowing a bump for spending by an opponent are struck down, the entire bill will be struck down.

If the courts strike down any of the issue ad or pre-reporting provisions, we would be left with a bill requiring candidates not receiving public grants to disclose their campaign plans, and providing funding bumps for opponent spending but not for independent spending. This would actually encourage a candidate not taking public money to rely on independent spending rather than engaging in its own spending.

WEAC encourages you to oppose AB 801/SB 104 and instead look for ways to enact constitutional campaign finance reforms that are comprehensive, equitable, and practical.





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: ASSEMBLY COMMITTEE ON CAMPAIGNS AND ELECTIONS

FROM: Robert J. Conlin, Senior Staff Attorney *RJC*

RE: Comparison Table of 2001 Assembly Bill 801 and LRB-2872/3

DATE: February 18, 2002

The attached table, prepared at the request of the committee, compares and summarizes the provisions of 2001 Assembly Bill 801 and LRB-2872/3. As you know, 2001 Assembly Bill 801 was introduced by Representative Travis and others; and cosponsored by Senator Ellis and others. Its provisions are identical to those of 2001 Engrossed Senate Bill 104. LRB-2872/3 is a proposed bill created by Representative Duff.

It should be noted that any comparison of any campaign finance proposals is difficult, but the comparison of two proposals which take significantly different routes to achieving reform is especially difficult. That is the case with the comparison of these two proposals. In short, Assembly Bill 801 seeks to reform the campaign finance system by increasing public funds available for campaign finance grants, increasing reporting requirements, and providing additional grants to respond to political ads and other disbursements outside of the candidate's control. LRB-2872/3, on the other hand, provides for a system that encourages individuals to participate in public financing by providing lower contribution limits to nonparticipating candidates and allows candidates to respond to certain outside expenditures by raising and spending additional private funds.

Accordingly, when reviewing the attached table, care should be exercised when trying to compare provisions that are not readily comparable.

Should you have any questions about the attached table, please feel free to contact me at the Legislative Council Staff offices.

RJC:rv;tlu

Attachment

Comparison of 2001 Assembly Bill 801 and LRB-2872/3

2001 ASSEMBLY BILL 801	LRB-2872/3
<p>A. REGISTRATION AND REPORTING REQUIREMENTS</p> <ul style="list-style-type: none"> <u>Independent Disbursements.</u> Provides that a special interest committee, other than a conduit, that intends to receive any contribution, make any disbursement, or incur any obligation for the purpose of independently advocating the election or defeat of a candidate for statewide or legislative office, or for the purpose of making certain communications, must report the name of each candidate who is supported or whose opponent is opposed and the total amount of contributions to be received, disbursements to be made, and obligations to be incurred for these purposes during the 21-day period following the date on which the report is due to be filed. <i>[A communication to which the requirements apply is a communication made by means of one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of that election and that includes a reference to a candidate to appear on the ballot at the election, a reference to an office to be filled at the election, or a reference to a political party.]</i> The reports must be filed on the 63rd, 42nd and 21st days prior to the election. In addition, the committee also must report the amount and date of each contribution received, disbursement made, or obligation incurred regarding its independent activities during the 21-day period ending on the 39th and 18th days prior to the election. <p>A violation of the reporting requirements may result in a forfeiture of not more than \$500 per day for each day of the continued violation. Also, if a disbursement is made, or an obligation to make a disbursement is incurred, in an amount or value differing from the amount reported, then specified forfeitures must be paid. For example, if the actual amount or value differs from the reported figures by more than 5% but not more than 10% cumulatively, the violator must forfeit four times the amount or value of the difference. If the difference is more than 10% but not more than 15% cumulatively, the violator must forfeit six times the amount or value of the difference. If the difference is greater than these amounts, the violator must forfeit eight times the amount of the difference.</p>	<ul style="list-style-type: none"> No similar provision, but requires reporting within 24 hours of disbursements or obligations made independently of a candidate for a communication that advocates the election or defeat of a candidate within 21 days of an election and exceeding \$250.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>"Issue Ad" Registration.</u> Imposes registration and financial reporting requirements upon individuals or groups that make a communication during the period beginning on the 60th day preceding an election and ending on the date of the election that includes a reference to a candidate appearing on the ballot at that election, a reference to an office to be filled at that election, or a reference to a political party. 	<ul style="list-style-type: none"> • No similar provision, but provides that if a communication is made with an "independent expenditure" in a race against a candidate or for a candidate's opponent, all candidates may be released from the applicable disbursement limits and have the contribution limits doubled if the communication made with "independent expenditures" is found to likely have an "unfair impact" on the race. • An "independent expenditure" is defined as an expenditure made for the purpose of making a communication during the 30-day period preceding a primary or the 60-day period preceding an election that contains a reference to a clearly identified candidate for an office to be filled at that election; that is made without cooperation or consultation with such a candidate; and that is not made in concert with, or at the request or suggestion of such a candidate. • The Elections Board must establish, by rule, standards for determining whether an independent expenditure is likely to have an unfair impact on a race based upon the percentage of eligible voters reached by the communication if it is made by a broadcast communications medium, the number of pieces of the material directed to residents of the contested jurisdiction if the communication is a mass mailing, or the cost of the communication for other types of communications.
<ul style="list-style-type: none"> • <u>Referenda Reports.</u> Requires an individual who accepts contributions, incurs obligations or makes disbursements with respect to a referendum, or a political group which similarly makes or accepts contributions, incurs obligations or makes disbursements, in excess of \$100 to file a statement with the appropriate filing officer providing registration information such as the name of the individual or group, the name of the treasurer, the nature of the referenda, and other identifying information. 	<ul style="list-style-type: none"> • Similar treatment.
<ul style="list-style-type: none"> • <u>Candidate's Identity.</u> Requires the registration statement of a personal campaign committee to identify the candidate on whose behalf the committee was formed and the office that the candidate seeks. 	<ul style="list-style-type: none"> • No similar provision.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none">• <u>Phone, Fax or Email of a Candidate.</u> Requires the registration statement of a candidate or personal campaign committee to include the telephone number and fax number or email address, if any, at which the candidate may be contacted.	<ul style="list-style-type: none">• No similar provision.
<ul style="list-style-type: none">• <u>Exemption From Independent Disbursement Report--State Office.</u> Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for <i>state office</i> but who or which does not anticipate accepting contributions or making disbursements in excess of \$1,000 in a calendar year and does not anticipate accepting a contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If revocation is not timely made, it is considered a violation of false reporting statutes. In contrast to an independent expenditure, an independent disbursement refers to an expenditure that is made clearly for the purpose of opposing the election of a grant recipient, or for the purpose of supporting a certified opponent of that candidate, when none of the disbursements are made in cooperation with the grant recipient's opponent.	<ul style="list-style-type: none">• No similar provision.
<ul style="list-style-type: none">• <u>Exemption From Independent Disbursement Report--Local Office.</u> Provides that an individual or committee required to file an oath of independent disbursements and who or which accepts contributions and makes disbursements for supporting or opposing one or more candidates for <i>local office</i> but who or which does not anticipate accepting contributions or making disbursements in excess of \$100 in a calendar year and does not anticipate accepting any contribution exceeding \$100 from a single source may make a statement to that effect on the registration statement and the individual or committee would not be subject to any filing requirements if the statement is true. The statement may be revoked and, if it is, filing requirements apply. If the revocation is not timely made, it is considered a violation of the false reporting statutes.	<ul style="list-style-type: none">• No similar provision.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>24-Hour Reporting of Obligations.</u> Extends the 24-hour reporting requirement under current law for disbursements in excess of \$20 made within the last 15 days prior to an election to include the reporting of incurred obligations over \$20 in that time period. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>24-Hour Reporting for Candidates not Accepting Public Financing.</u> Provides that any candidate for Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, Superintendent, Representative or Senator who does not accept a grant from the Wisconsin Election Campaign Fund (Fund) and who makes a disbursement after accumulating cash or who makes disbursements exceeding a combined total of 75% of the disbursement limit for the applicable office, must file daily reports with the Elections Board and each candidate for that office, by email or fax, on each day beginning with that date or the seventh day after the primary election was held (or would have been held), whichever is later. Each report must contain information pertaining to each disbursement made by the candidate or committee and must be filed no later than 24 hours after the disbursement is made. If no email or fax number is available, the report must be filed at the address shown for the candidate. 	<ul style="list-style-type: none"> • No similar provision, but requires a candidate at a primary or other election to file weekly preprimary or preelection reports once he or she has received contributions or other income exceeding 20% of the disbursement level for that office.
<ul style="list-style-type: none"> • <u>Timely Reports.</u> Provides that a report is timely filed only by delivering it to the appropriate filing office or agency by the due date or by depositing the report with the U.S. Postal Service no later than the third day before the due date. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Out-of-State Registrants.</u> No provision. 	<ul style="list-style-type: none"> • Requires out-of-state registrants to report the same information concerning contributions, transfers, loans, disbursements, and obligations as in-state registrants. [Under current law, such out-of-state registrants need only report such transactions involving Wisconsin sources or campaigns.]
<ul style="list-style-type: none"> • <u>Duplicate Filing.</u> No provision. 	<ul style="list-style-type: none"> • Requires registrants whose filing officer is the Elections Board and who make disbursements in connection with elections affecting only one county or a portion thereof to file duplicate originals of these reports with the filing officer of each jurisdiction in which such elections are held.

2001 ASSEMBLY BILL 801	LRB-2872/3																																																												
<p>B. CONTRIBUTIONS</p> <ul style="list-style-type: none"> <u>Individual Contribution Limits.</u> Retains the individual contribution limits under current law for certain offices as follows: <table> <tr><td>Governor</td><td>\$10,000</td></tr> <tr><td>Lieutenant Governor</td><td>\$10,000</td></tr> <tr><td>Attorney General</td><td>\$10,000</td></tr> <tr><td>Secretary of State</td><td>\$10,000</td></tr> <tr><td>Treasurer</td><td>\$10,000</td></tr> <tr><td>Superintendent</td><td>\$10,000</td></tr> <tr><td>Justice</td><td>\$10,000</td></tr> <tr><td>Senator</td><td>\$1,000</td></tr> <tr><td>Representative</td><td>\$500</td></tr> </table>	Governor	\$10,000	Lieutenant Governor	\$10,000	Attorney General	\$10,000	Secretary of State	\$10,000	Treasurer	\$10,000	Superintendent	\$10,000	Justice	\$10,000	Senator	\$1,000	Representative	\$500	<ul style="list-style-type: none"> Modifies individual contribution limits for the following offices: <table> <tr><td>Governor</td><td>\$10,000</td></tr> <tr><td>Lieutenant Governor</td><td>\$5,000</td></tr> <tr><td>Attorney General</td><td>\$7,500</td></tr> <tr><td>Secretary of State</td><td>\$5,000</td></tr> <tr><td>Treasurer</td><td>\$5,000</td></tr> <tr><td>Superintendent</td><td>\$5,000</td></tr> <tr><td>Justice</td><td>\$5,000</td></tr> <tr><td>Senator</td><td>\$1,500</td></tr> <tr><td>Representative</td><td>\$750</td></tr> <tr><td>Court of Appeals</td><td>\$3,000</td></tr> <tr><td>Circuit Judge/DA >500,000 pop.</td><td>\$3,000</td></tr> <tr><td>Circuit Judge/DA 300,000-500,000 pop.</td><td>\$2,000</td></tr> <tr><td>Circuit Judge/DA 150,000-300,000 pop.</td><td>\$1,000</td></tr> <tr><td>Circuit Judge/DA 75,000-150,000 pop.</td><td>\$750</td></tr> <tr><td>Circuit Judge/DA 50,000-75,000 pop.</td><td>\$500</td></tr> <tr><td>Circuit Judge/DA 30,000-50,000 pop.</td><td>\$400</td></tr> <tr><td>Circuit Judge/DA 15,000-30,000 pop.</td><td>\$300</td></tr> <tr><td>Circuit Judge/DA 5,000-15,000 pop.</td><td>\$200</td></tr> <tr><td>Circuit Judge/DA 2,000-5,000 pop.</td><td>\$150</td></tr> <tr><td>Circuit Judge/DA <2,000 pop.</td><td>\$125</td></tr> <tr> <td>Candidates for local office</td><td> The greater of: <ul style="list-style-type: none"> • 250; or • one cent times population of jurisdiction, but not more than \$3,000 </td></tr> </table>	Governor	\$10,000	Lieutenant Governor	\$5,000	Attorney General	\$7,500	Secretary of State	\$5,000	Treasurer	\$5,000	Superintendent	\$5,000	Justice	\$5,000	Senator	\$1,500	Representative	\$750	Court of Appeals	\$3,000	Circuit Judge/DA >500,000 pop.	\$3,000	Circuit Judge/DA 300,000-500,000 pop.	\$2,000	Circuit Judge/DA 150,000-300,000 pop.	\$1,000	Circuit Judge/DA 75,000-150,000 pop.	\$750	Circuit Judge/DA 50,000-75,000 pop.	\$500	Circuit Judge/DA 30,000-50,000 pop.	\$400	Circuit Judge/DA 15,000-30,000 pop.	\$300	Circuit Judge/DA 5,000-15,000 pop.	\$200	Circuit Judge/DA 2,000-5,000 pop.	\$150	Circuit Judge/DA <2,000 pop.	\$125	Candidates for local office	The greater of: <ul style="list-style-type: none"> • 250; or • one cent times population of jurisdiction, but not more than \$3,000
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2001 ASSEMBLY BILL 801	LRB-2872/3																																																
	<ul style="list-style-type: none">• Further provides that for a candidate who does not accept a grant and does not file an affidavit of voluntary compliance with the disbursement limits, the individual contribution limits for that candidate are 50% of the above amounts.• Creates a quadrennial cost of living adjustment for individual contributions beginning in 2006.																																																
<ul style="list-style-type: none">• <u>Committee Contribution Limits.</u> Modifies committee contribution limits for certain offices as follows: <table><tr><td></td><td><i>Current</i></td><td><i>Bill</i></td></tr><tr><td>Governor</td><td>\$43,128</td><td>\$45,000</td></tr><tr><td>Lieutenant Governor</td><td>\$12,939</td><td>\$15,000</td></tr><tr><td>Attorney General</td><td>\$21,560</td><td>\$25,000</td></tr><tr><td>Secretary of State</td><td>\$8,625</td><td>\$10,000</td></tr><tr><td>Treasurer</td><td>\$8,625</td><td>\$10,000</td></tr><tr><td>Superintendent</td><td>\$8,625</td><td>\$10,000</td></tr><tr><td>Justice</td><td>\$8,625</td><td>\$10,000</td></tr><tr><td>Senator</td><td>\$1,000</td><td>\$1,000</td></tr><tr><td>Representative</td><td>\$500</td><td>\$500</td></tr></table>		<i>Current</i>	<i>Bill</i>	Governor	\$43,128	\$45,000	Lieutenant Governor	\$12,939	\$15,000	Attorney General	\$21,560	\$25,000	Secretary of State	\$8,625	\$10,000	Treasurer	\$8,625	\$10,000	Superintendent	\$8,625	\$10,000	Justice	\$8,625	\$10,000	Senator	\$1,000	\$1,000	Representative	\$500	\$500	<ul style="list-style-type: none">• Modifies committee contribution limits for certain offices as follows:<table><tr><td>Governor</td><td>\$43,500</td></tr><tr><td>Lieutenant Governor</td><td>\$12,000</td></tr><tr><td>Attorney General</td><td>\$22,000</td></tr><tr><td>Secretary of State</td><td>\$8,650</td></tr><tr><td>Treasurer</td><td>\$8,650</td></tr><tr><td>Superintendent</td><td>\$12,000</td></tr><tr><td>Justice</td><td>\$12,000</td></tr><tr><td>Senator</td><td>\$1,500</td></tr><tr><td>Representative</td><td>\$750</td></tr></table>• Amounts subject to indexing quadrennially.	Governor	\$43,500	Lieutenant Governor	\$12,000	Attorney General	\$22,000	Secretary of State	\$8,650	Treasurer	\$8,650	Superintendent	\$12,000	Justice	\$12,000	Senator	\$1,500	Representative	\$750
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<ul style="list-style-type: none">• <u>Overall Individual Contribution Limits.</u> Retains the overall individual contribution limit at \$10,000 per year.	<ul style="list-style-type: none">• Similar treatment, but amount is subject to indexing quadrennially.																																																
<ul style="list-style-type: none">• <u>Contributor Information.</u> Requires a campaign treasurer of a registrant that receives a contribution of money from an individual who has contributed over \$100 to obtain information relating to the person's occupation and principal place of employment before depositing the contribution. If the treasurer does not obtain this information, the contribution must be returned.	<ul style="list-style-type: none">• No similar provision.																																																
<ul style="list-style-type: none">• <u>Contributions by and to Certain Federal Registrants.</u> No provision.	<ul style="list-style-type: none">• Prohibits a federal candidate committee from making a contribution to a Wisconsin candidate or personal or support committee of that candidate, and prohibits a personal campaign committee from making a contribution to a federal political registrant.																																																

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<ul style="list-style-type: none">• <u>Committee Contributions in General.</u> Provides, for the following state offices, that an individual who is a candidate may not receive or accept more than the following fixed dollar amounts from political party committees or all committees other than political party committees: <table><tr><td></td><td><i>Political Parties</i></td><td><i>Other Committees</i></td></tr><tr><td>Governor</td><td>\$400,000</td><td>\$485,190</td></tr><tr><td>Lieutenant Governor</td><td>\$100,000</td><td>\$145,564</td></tr><tr><td>Attorney General</td><td>\$100,000</td><td>\$242,550</td></tr><tr><td>Secretary of State</td><td>\$50,000</td><td>\$97,031</td></tr><tr><td>Treasurer</td><td>\$50,000</td><td>\$97,031</td></tr><tr><td>Superintendent</td><td>\$50,000</td><td>\$97,031</td></tr><tr><td>Justice</td><td>\$50,000</td><td>\$97,031</td></tr><tr><td>Senator</td><td>\$24,000</td><td>\$15,525</td></tr><tr><td>Representative</td><td>\$12,000</td><td>\$7,763</td></tr></table> <p>For all other state or local offices, the bill provides that a candidate may not receive and accept more than 20% of the value of the total disbursement level for the office for which he or she is a candidate during any primary or election campaign combined from all political party committees. Further, no such candidate may receive and accept more than 25% of the value of the total disbursement level combined from all committees other than political party committees subject to a filing requirement. [<i>Current law provides that a candidate may not receive more than 65% of the disbursement level from all political party committees and no more than 45% of the disbursement level combined from all committees other than political party committees.</i>]</p>		<i>Political Parties</i>	<i>Other Committees</i>	Governor	\$400,000	\$485,190	Lieutenant Governor	\$100,000	\$145,564	Attorney General	\$100,000	\$242,550	Secretary of State	\$50,000	\$97,031	Treasurer	\$50,000	\$97,031	Superintendent	\$50,000	\$97,031	Justice	\$50,000	\$97,031	Senator	\$24,000	\$15,525	Representative	\$12,000	\$7,763	<ul style="list-style-type: none">• Essentially retains current law, but provides for indexing quadrennially.
	<i>Political Parties</i>	<i>Other Committees</i>																													
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<ul style="list-style-type: none">• <u>Committee Contributions to Publicly Financed Candidates.</u> Prohibits a candidate or personal campaign committee who applies for a grant from the Fund from accepting a contribution from a committee other than a political party committee.	<ul style="list-style-type: none">• No similar provision.																														

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>Contributions to Incumbents During Legislative Session.</u> Prohibits contributions to any incumbent partisan state elective official for the purpose of promoting that official's nomination for reelection to the office held by the official during the period beginning on the first Monday in January of odd-numbered years and ending on the date of enactment of the biennial budget act. 	<ul style="list-style-type: none"> • With certain exceptions, prohibits a member of the Legislature or his or her campaign committee to make any contribution in connection with a fundraising social event held in Dane County during a floorperiod or a special or extraordinary session if the event is held to benefit a member or member's personal campaign committee. Provides a forfeiture of up to \$500 for each violation, and a fine of up to \$1,000 and up to six months imprisonment, or both, for intentional violations.
<ul style="list-style-type: none"> • <u>Contributions to Political Parties.</u> Increases, for political parties, the amount they may receive in a biennium from all committees, excluding transfers between party committees of the party, from \$150,000 to \$450,000. 	<ul style="list-style-type: none"> • Increases the amount political parties may receive in a biennium from all committees, excluding transfers within the state political party committee, from \$150,000 to \$600,000. Amount is to be indexed quadrennially.
<ul style="list-style-type: none"> • <u>Political Party Limits.</u> Increases the maximum amount a political party may receive from a committee, exclusive of political party committees, and increases the amount a committee, other than a political party committee, can contribute to a political party in a calendar year from \$6,000 to \$18,000. 	<ul style="list-style-type: none"> • Provides that a state political party committee may receive no more than \$20,000 in contributions from any specific committee or that specific committee's subunits or affiliates, excluding transfers within the state political party committee and transfers between the state political party committee and a local political party committee. Also provides that no committee, other than a state political party committee or local political party committee, may make a contribution of more than \$20,000 to a state political party in a calendar year. Amounts to be indexed quadrennially. • Also provides that no local political party committee may receive more than a total of the following amounts of contributions in any biennium from all other committees, excluding transfers within the local political party committee: <ol style="list-style-type: none"> 1. \$75,000 if the committee operates primarily in a county with a population of more than 350,000. 2. \$50,000 if the committee operates primarily in a county with a population between 100,000 and 350,000. 3. \$25,000 if the committee operates primarily in a county with a population under 100,000. <p>These amounts are subject to indexing quadrennially.</p>

2001 ASSEMBLY BILL 801	LRB-2872/3
	<ul style="list-style-type: none"> • Provides that no local political party committee may receive more than a total of \$6,000 in any calendar year from any specific committee or that specific committee's subunits or affiliates, excluding transfers within the local political party committee and transfers between the local political party committee and a state political party committee. Amount is subject to indexing quadrennially. • Provides that no committee, other than a state political party committee or local political party committee, may make any contribution to a local political party committee in a calendar year exceeding \$6,000. Amount is subject to indexing quadrennially.
<ul style="list-style-type: none"> • <u>PAC to PAC Transfers.</u> Prohibits a committee from making a contribution to any other committee, except a political party committee, personal campaign or support committee. However, allows a committee affiliated with a labor organization to make a contribution to any other committee that is affiliated with the same labor organization. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Solicitation of Contributions.</u> Prohibits a state elective official and his or her personal campaign committee from soliciting a lobbyist or principal to arrange for another person to make a campaign contribution to that official or personal campaign committee or to another elective state official or the personal campaign of that official. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Pay-to-Play.</u> Prohibits a state or local elected official from, directly or by means of an agent, giving, or offering or promising to give, or withholding, or offering or promising to withhold, his or her vote or influence, or promising to take or refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any other person who is subject to a registration requirement under the campaign finance law or any person making a communication that contains a reference to a clearly identified state or local elected official or to a candidate for such an office. The bill also provides for forfeitures for violations of the "pay-to-play" prohibition. 	<ul style="list-style-type: none"> • Same treatment.

2001 ASSEMBLY BILL 801			LRB-2872/3	
C. DISBURSEMENTS				
<ul style="list-style-type: none"> <u>Disbursement Limits.</u> Revises the disbursement levels for the following offices: 			<ul style="list-style-type: none"> Revises the disbursement levels for the following offices: 	
	<i>Current</i>	<i>Bill</i>	Governor	\$2,750,000
Governor	\$1,078,200	\$2,000,000	Lieutenant Governor	\$400,000
Lieutenant Governor	\$323,475	\$500,000	Attorney General	\$750,000
Attorney General	\$539,000	\$700,000	Secretary of State	\$300,000
Secretary of State	\$215,625	\$250,000	Treasurer	\$300,000
Treasurer	\$215,625	\$250,000	Superintendent	\$400,000
Superintendent	\$215,625	\$250,000	Justice	\$400,000
Justice	\$215,625	\$300,000	Senator	\$112,500
Senator	\$34,500	\$100,000	Representative	\$45,000
Representative	\$17,250	\$50,000	Court of Appeals >500,000 pop.	\$400,000
			Circuit Judge/DA >500,000 pop.	\$400,000
			Circuit Judge/DA 300,000-500,000 pop.	\$300,000
			Circuit Judge/DA 150,000-300,000 pop.	\$200,000
			Circuit Judge/DA 75,000-150,000 pop.	\$115,000
			Circuit Judge/DA 50,000-75,000 pop.	\$67,500
			Circuit Judge/DA 30,000-50,000 pop.	\$40,000
			Circuit Judge/DA 15,000-30,000 pop.	\$25,000
			Circuit Judge/DA 5,000-15,000 pop.	\$10,000
			Circuit Judge/DA 2,000-5,000 pop.	\$3,500
			Circuit Judge/DA <2,000 pop.	\$1,500
			County Executive >500,000 pop.	\$269,500
			County Supervisor >500,000 pop.	\$17,250

2001 ASSEMBLY BILL 801	LRB-2872/3
	<p>Other countywide offices >500,000 pop. \$107,825</p> <p>Mayor in first class city \$269,550</p> <p>City Attorney in first class city \$161,725</p> <p>Other citywide offices in first class city \$107,825</p> <p>Alderpersion in first class city \$17,250</p> <p>Other local candidates <500,000 pop. The greater of:</p> <ul style="list-style-type: none"> • 1,075 • 53.91% of salary • 32.35 cents per inhabitant up to \$43,125 <p>• All amounts are subject to indexing quadrennially.</p>
<p>• <u>Competitive Primary.</u> Provides that the total disbursement limitation for a candidate whose name appears on the ballot at a primary election will be increased to 120% of the normal disbursement level for that office if all of the following conditions occur:</p> <ol style="list-style-type: none"> 1. The candidate receives less than twice as many votes at that election as another candidate who is within the same political party and who is running for the same office. 2. The candidate has an opponent in the general or special election who received at least 6% of the votes cast in the primary. 	<p>• No similar provision.</p>
<p>• <u>Voluntary Limits.</u> Repeals the provision authorizing voluntary disbursement limitations for candidates who do not accept a grant from the Fund.</p>	<p>• Retains the voluntary disbursement limitations for candidates who do not accept a grant from the fund. Requires the filing of an affidavit in order to be bound by the limitations.</p>
<p>• <u>Limits Increased for Grants.</u> Provides that the disbursement limitation for a candidate who receives certain additional grants from the fund are increased by the amount of those grants.</p>	<p>• No similar provision.</p>

2001 ASSEMBLY BILL 801	LRB-2872/3								
<ul style="list-style-type: none"> • <u>Cost-of-Living Adjustment.</u> Creates a cost-of-living adjustment for the disbursement limitations, which is to be determined by rule by the Elections Board. The board must determine the percentage difference between the Consumer Price Index for the 12-month period ending on December 31 of each odd-numbered year and the Consumer Price Index for calendar year 2003. Each biennium the Elections Board is required to adjust the disbursement limitations by that percentage to reflect any difference, rounded to the nearest multiple of \$25, which shall be in effect until a subsequent rule is promulgated. Such determinations by the Elections Board may be promulgated as emergency rules. 	<ul style="list-style-type: none"> • Similar treatment, but adjustment is made quadrennially beginning in 2006 and applies to most contribution limits as well. 								
<ul style="list-style-type: none"> • <u>Federal Candidate Disbursements.</u> No provision. 	<ul style="list-style-type: none"> • Provides that no federal candidate committee may make a disbursement. 								
<p><u>D. Public Financing</u></p> <ul style="list-style-type: none"> • <u>Grant Amounts.</u> Retains the grant amount available to a candidate at the current level of 45% of the disbursement level for a general election. An additional 10% of the disbursement level may be awarded for an eligible primary campaign. To receive the additional 10%, a candidate who accepts a grant must have won a contested primary and submitted nomination papers containing the following number of valid signatures for the office he or she seeks: <table data-bbox="142 1276 737 1457"> <thead> <tr> <th><i>Office</i></th><th><i>Number of Signatures</i></th></tr> </thead> <tbody> <tr> <td>Statewide office</td><td>Not less than 4,000 electors</td></tr> <tr> <td>Senator</td><td>Not less than 800 electors</td></tr> <tr> <td>Representative</td><td>Not less than 400 electors</td></tr> </tbody> </table>	<i>Office</i>	<i>Number of Signatures</i>	Statewide office	Not less than 4,000 electors	Senator	Not less than 800 electors	Representative	Not less than 400 electors	<ul style="list-style-type: none"> • Retains the grant amount at 45% for eligible candidates at the general election with the following exceptions: <ul style="list-style-type: none"> ♦ The total grant available for the Office of Justice is 65% of the disbursement level and that office will enjoy a "first draw" on available grant funds. ♦ If a grant candidate has a balance in his or her account that exceeds 50% of the applicable disbursement limit at the time of application, the amount of the grant is 50% of the amount otherwise payable. ♦ If a grant candidate does not have an opponent whose application for a grant has been approved, the amount of the grant is 50% of the amount otherwise payable. • Grants will be prorated if insufficient funds.
<i>Office</i>	<i>Number of Signatures</i>								
Statewide office	Not less than 4,000 electors								
Senator	Not less than 800 electors								
Representative	Not less than 400 electors								
<ul style="list-style-type: none"> • <u>Extra Grant Based on Opposition.</u> Provides that in the case of a candidate who accepts a grant, and is opposed by one or more candidates who do not accept a grant and who make total disbursements exceeding the disbursement level for the office, the Elections Board must make an additional grant to the candidate in an amount equal to the total amount or value of the disbursements made by the opposing candidate or candidates exceeding the disbursement levels for that office. 	<ul style="list-style-type: none"> • No extra grant, but as under current law if an opponent who receives 6% of the votes in a primary does not accept a grant and does not file an affidavit of voluntary compliance, the grant candidate is not bound by the contribution limits and disbursement limits. 								

<i>2001 ASSEMBLY BILL 801</i>	<i>LRB-2872/3</i>
	<ul style="list-style-type: none"> Also provides that if a candidate determines that his or her opponent who has not filed an affidavit of voluntary compliance has made disbursements exceeding the disbursement limit, then that candidate and each of his or her opponents may make additional contributions to their own campaigns and may make additional disbursements exceeding the applicable limit in an amount equal to the lesser of the total contributions made by the opposing candidate to his or her own campaign or the amount by which the total disbursements made by the opposing candidate exceed the disbursement level applicable to that candidate. In addition, the contribution limits are doubled for the candidate and all the opponents.
<ul style="list-style-type: none"> <u>Extra Grant Based on Independent Disbursements.</u> Provides that if a candidate who accepts a grant has independent disbursements made against him or her or if the independent disbursements are made on behalf of the candidate's opponent, the Elections Board must make an additional grant to the candidate when the expenditures exceed 10% of the disbursement limit for the office. The amount of the additional grant must equal the total of the independent disbursements made. Again, the disbursements include a disbursement made for a communication made by one or more communications media during the period beginning on the 60th day preceding an election and ending on the date of the election and that includes a reference to a candidate, a reference to an office to be filled at that election, or a reference to a political party. 	<ul style="list-style-type: none"> No extra grant, but if a candidate has filed an affidavit of voluntary compliance with the disbursement limits and each of the candidate's opponents have done so, and if the candidate determines that one or more independent expenditures have been made for the purpose of making a communication in opposition to the candidate or in support of an opponent and a communication is likely to have an unfair impact on the campaign, the candidate may file a sworn statement to this effect with the Elections Board. Upon receipt of such a statement and if the board determines that an independent expenditure was made and it is likely to have an unfair impact in the race, the board must, within three days, issue a determination that the candidate and each of his or her opponents are not bound by disbursement limitations and that the contribution limits are doubled.
<ul style="list-style-type: none"> <u>Extra Grant Based on Contributions Received by Opposing Committee.</u> Provides that if a candidate who accepts a grant and is opposed by a candidate, and if a committee intends to receive or receives any contribution or contributions that are intended to be used or that are used to oppose the election of the candidate who accepts a grant or to support his or her opponent without cooperation or consultation with the opponent, then the Elections Board must make an additional grant to the candidate who accepts a grant in an amount equal to the total amount of contributions received by the committee for the purpose of advocating the election of the opponent or for opposing the election of the candidate who accepts a grant. 	<ul style="list-style-type: none"> No similar provision.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>Increased Checkoff.</u> Increases the income tax "checkoff" from \$1 to \$5 and allows the individual making such designation to indicate whether the amount shall be placed in the Fund's "general account" or "political party account." If a designation does not indicate which account, the "general account" will be credited. 	<ul style="list-style-type: none"> • Similar treatment, but creates a "true checkoff" of up to \$5 whereby a person's tax liability or refund is affected. • Provides up to a \$5 nonrefundable income tax credit for the "checkoff."
<ul style="list-style-type: none"> • <u>Donations to the Fund.</u> Authorizes contributions that are required to be returned or donated to charitable organizations or to the common school fund to be transferred to the Fund. 	<ul style="list-style-type: none"> • Similar treatment.
<ul style="list-style-type: none"> • <u>Party Accounts.</u> Establishes a "general account" and a "political party account" under the Fund. 	<ul style="list-style-type: none"> • Similar treatment. A candidate may receive funds from the "general account" only if the candidate receives at least 6% of the primary vote. However, a candidate need not meet this requirement for a grant from a "political party account."
<ul style="list-style-type: none"> • <u>Limits on Committee Contributions.</u> Requires applicants for a grant to file a sworn statement that he or she has not accepted and retained any contributions from committees, other than political party committees, and that he or she will not accept any, unless it is determined that he or she is ineligible for a grant. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Qualifying Fundraising.</u> Requires an applicant for a grant to have raised at least 3% of the disbursement level applicable to the office sought in contributions of \$100 or less from individuals who reside in the state, and, for a legislative candidate, by individuals at least 50% of whom reside in a county having territory within the legislative district for which the candidate seeks office. 	<ul style="list-style-type: none"> • Similar treatment, but most candidates would have to raise 5% of the disbursement level and Senate and Assembly candidates would have to raise 7% of the disbursement level.
<ul style="list-style-type: none"> • <u>Applications.</u> Repeals the current authority for an eligible candidate to withdraw his or her public financing application. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Exceeding Disbursement Limit.</u> Repeals the current law provisions which allow a candidate who receives a grant to exceed the disbursement limit if his or her opponent does not accept a grant. 	<ul style="list-style-type: none"> • No similar provision. (See Extra Grant Based on Opposition.)
<ul style="list-style-type: none"> • <u>Return of Committee Contribution.</u> Requires a candidate applying for a grant to return any contributions from committees, other than the political party committees, before filing an application for the grant. 	<ul style="list-style-type: none"> • No similar provision.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>Designated Checkoff.</u> Allows individuals to designate their income tax checkoff for a political party and requires such designated funds to go to a "political party" account. Moneys from such an account are apportioned to eligible candidates representing the party who qualify for grants. 	<ul style="list-style-type: none"> • Similar treatment.
<ul style="list-style-type: none"> • <u>Supplemental Account.</u> Provides that if there are insufficient funds in the Fund, the State Treasurer is required to supplement the Fund from a sum sufficient GPR appropriation. 	<ul style="list-style-type: none"> • No similar provision. Grant funds prorated if sufficient funds not available.
<ul style="list-style-type: none"> • <u>Electronic Transfer.</u> Requires the State Treasurer to electronically transfer any supplemental grants a candidate qualifies for to the candidate's campaign depository account if the Treasurer has the necessary account information. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Administration.</u> Requires the Elections Board to certify to the Department of Revenue (DOR) in each even-numbered year information relevant to eligible political parties and candidates for purposes of administering the Fund. 	<ul style="list-style-type: none"> • Similar treatment.
<p>E. OTHER</p> <ul style="list-style-type: none"> • <u>Conduits.</u> Limits conduit transfers to amounts not to exceed committee contributions. 	<ul style="list-style-type: none"> • No similar provision. Essentially retains current law. However, requires each registrant which receives contributions from a conduit to file a separate schedule developed by the Elections Board which identifies the name and address of the conduit, the date and amount of each transfer, and the total amount transferred by the conduit for each year.
<ul style="list-style-type: none"> • <u>Legislative Campaign Committees.</u> Eliminates the special status of legislative campaign committees. 	<ul style="list-style-type: none"> • Same treatment.
<ul style="list-style-type: none"> • <u>Public Information.</u> Creates a public information account, which is funded by up to 5% of the Fund, to be used by the Elections Board to provide public information on the income tax "checkoff" and the purpose and effect of public campaign financing. The Elections Board is required to prepare an easily understood description of the purposes and effect of the checkoff and public financing. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Local Prosecutions.</u> Authorizes the District Attorney of any county which has territory within the jurisdiction or district within which a candidate seeks office to bring an action for violation of campaign finance laws alleged to have been committed by the candidate. 	<ul style="list-style-type: none"> • No similar provision.

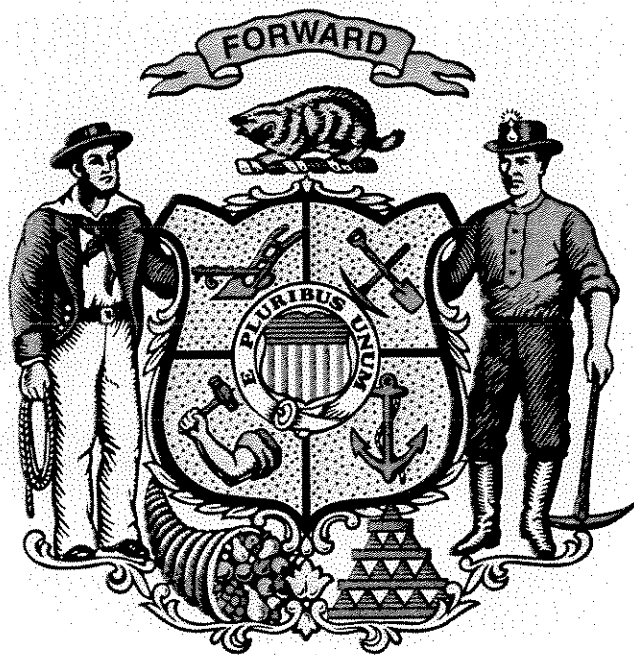
2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none"> • <u>Tax Information.</u> Requires DOR to place public information materials concerning the tax checkoff prepared by the Elections Board in tax return instructions. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Declaratory Actions.</u> Authorizes any person who proposes to publish, disseminate or broadcast any communication, or any person who causes such publication, dissemination or broadcast, to commence a declaratory action to determine the application of the registration requirements under the campaign finance law to that person. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Nonseverability.</u> Provides that if a court finds unconstitutional any part of the process by which supplemental grants are made in response to an opponent's expenditures, the entire act is void. Further, if a court finds unconstitutional any part of the process by which supplemental grants are made in response to independent disbursements, then that process is void in its entirety. 	<ul style="list-style-type: none"> • No special severability provision.
<ul style="list-style-type: none"> • <u>Board Staff.</u> Increases the full-time equivalent staff positions at the Elections Board to add one campaign finance investigator and one auditor and provide \$76,100 in fiscal year 2001-02 and \$85,100 for fiscal year 2002-03 for salary, fringe and support benefits. 	<ul style="list-style-type: none"> • No similar provision.
<ul style="list-style-type: none"> • <u>Election Complaint Procedure.</u> No provision. 	<ul style="list-style-type: none"> • Creates an additional procedure for enforcement of the election laws in which any person may file a sworn complaint with the executive director of the Elections Board alleging a violation of the election laws. The executive director must investigate the complaint unless the executive director finds the complaint to be without merit. The executive director may also investigate any violation on his or her own initiative or at the direction of the board. The executive director may order an election official or private person to act in conformity with the election laws or rules of the board. The decision of the executive director may be appealed to the board. In deciding the appeal, the board is not bound by any findings or conclusions of the executive director. Any decision of the board is subject to court review. The board must periodically examine and review decisions issued under this procedure in order to clarify and improve the administration of the election laws.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none">• <u>Injunctive Relief.</u> No provision.	<ul style="list-style-type: none">• Requires that an elector who proposes to bring suit for injunctive relief under current law with respect to an alleged violation concerning an election for state office or a statewide referendum must first file a sworn complaint with the executive director of the Elections Board, and if the executive director does not order the relief sought within 10 days and the elector does not appeal the matter to the board, or the board, after a hearing, does not order the relief sought by the elector, the elector may then sue for injunctive relief.
<ul style="list-style-type: none">• <u>Penalties.</u> No provision.	<ul style="list-style-type: none">• Increases the forfeiture amount for a violation of the campaign finance law, except a contribution violation, from \$500 to \$1,500.• Increases the forfeiture applicable to a person who files a delinquent report from the greater of \$50 or 1% of the relevant salary for the office to the greater of \$150 or 3% of the relevant salary.• Increases the maximum penalties that may be imposed for intentional violations of the campaign finance laws relating to registration requirements, contribution limitations, the prohibition in filing false reports, and other provisions from \$1,000 and six months imprisonment, if the violation does not exceed \$100 and \$10,000 and four years and six months imprisonment if the violation exceeds \$100, to \$3,000 and one year imprisonment for violations under \$100 and \$30,000 and nine years imprisonment for violations over \$100.
<ul style="list-style-type: none">• <u>Public Broadcasting.</u> No provision.	<ul style="list-style-type: none">• Provides that public broadcasting television stations and public access channels must provide free airtime for candidates for state office. The Elections Board must promulgate rules that require public broadcasting television stations and public access channel operators to provide a minimum amount of free time to candidates for state office. The rules must require public access channel operators and public television stations to offer the same amount of time to each candidate for a particular state office, but may require different amounts of time to be offered to candidates for different offices.

2001 ASSEMBLY BILL 801	LRB-2872/3
<ul style="list-style-type: none">• <u>Conversion of Accounts</u>. No provision.	<ul style="list-style-type: none">• Prohibits the personal campaign committee or support committee of a candidate for state office from becoming the personal campaign or support committee of a candidate for local office.• Prohibits the personal campaign committee or support committee of a candidate for local office from becoming the personal campaign or support committee of a candidate for state office.

Table prepared by Robert J. Conlin, Senior Staff Attorney
Legislative Council Staff
February 18, 2002

RJC:tlu:ksm;jal:rv;rv;jal;tlu





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To: Representative Steve Freeze, Chair, Assembly Committee on Campaigns and Elections
Members of Assembly Committee on Campaigns and Elections

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: February 18, 2002

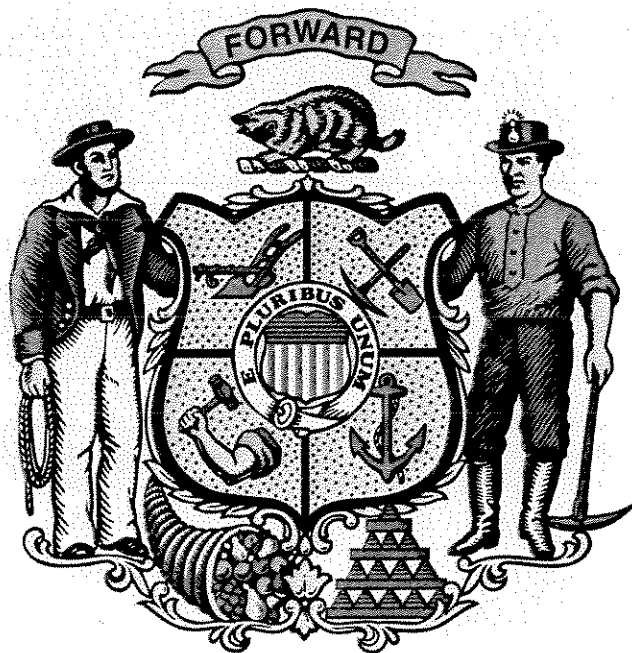
Re: Support for Assembly Bill 801, Comprehensive Campaign Finance Reform

The League of Wisconsin Municipalities supports Assembly Bill 801, the bipartisan comprehensive campaign finance reform measure identical to the version of SB 104 voted on in the Senate. Assembly Bill 801, like SB 104, would place new restrictions on campaign contributions, limit campaign spending, and provide effective public financing of election contests.

The League is a nonprofit association of 572 cities and villages. Organizations like the League and its member municipalities, which do not have political action committees or conduits, often find their issues not receiving the same attention from the legislature as groups that can help finance election campaigns. For that reason, the League has gone on record supporting comprehensive campaign finance reform measures that include public financing of campaigns. At the beginning of the current legislative session, our association joined the Voters First Coalition and supported that group's campaign finance reform proposals, most of which have been incorporated into AB 801 and SB 104.

Assembly adoption of AB 801 would be a giant step towards enacting sweeping and historic, change to this state's campaign finance laws in this legislative session. We urge the Committee to recommend passage of AB 801 and keep alive the possibility of enacting reform in this legislative session.

Thanks for considering the concerns of municipalities on this issue.



presented to each member by
Mr. Holtzman 2/18/02,

HERMAN HOLTZMAN
8501 OLD SAUK ROAD
MIDDLETON, WI 53562

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Fax (608) 662-0514
holtzy75@hotmail.com

February 19, 2002

To: Committee on Campaigns and Elections

From: Herman Holtzman, Representing my self and many other citizens who want full public funding of elections

Subject: AB 801

As a Poll Worker, I will be unable to attend today's hearing, in spite of the fact that city officials expect only an 11% turnout.

I've appeared before this committee on numerous occasions and my pleas for full public funding have fallen on deaf ears. Now, before we have a Wisconsin-Enron scandal, we have an opportunity to clean up the current scandals and rid the election and lawmaking process of corruption and the appearance of corruption.

Attached is a statement from the Minnesota Fair and Clean Elections Campaign (FACE) explaining why they are proposing a bill for full public funding for state campaigns. Minnesota passed their partial public funding bill in 1993. Some local reformers have used Minnesota as a model for comprehensive campaign finance reform. Well, it isn't working. Partial public funding is equivalent to partial corruption, which means corruption.

Also attached is a Guest Column by Bruce Miller who was a director of Common Cause that clearly illustrates the power of the special interests who can still contribute money. According to the watchdog Wisconsin Democracy Campaign, the contributors of \$1,850,000 to the governor and \$1,600,000 to legislators received \$819,000,000 in return. As Senator Bob Dole said, "People who give money to campaigns expect more than good government

Many polls have shown the public strongly supports full public funding. In Maine, Arizona and Massachusetts, voters approved ballot initiatives creating Clean Money Campaign Reforms. In Vermont, the legislature voted overwhelmingly for Clean Money. Will the Wisconsin legislature follow the will of the people and vote for Clean Money?

Finally, I have included a position paper that I am preparing for an organization that expands on the needs and advantage of Clean Money elections.

Sen. Risser's Amendment 4 to SB 104 provides for full public funding. Please accept this amendment for AB 801 so we can achieve real reform and restore Wisconsin's reputation.

PARTIAL CORRUPTION IS NOT REFORM

HERMAN HOLTZMAN
8501 OLD SAUK ROAD
MIDDLETON, WI 53562

(608) 662-9892
Fax (608) 662-0514
holtzy75@hotmail.com

Date: Mon, 28 Jan 2002 14:01:24 -0600

From: Geeta graval@mapa-mn.org

Subject: info on FACE

Hi Herman,

I got a message that you are requesting information on Clean Money and Clean Elections.

Minnesota has had partial public funding of campaigns since the 1970s, the most recent measure, of which was passed in 1993, which imposed limits on contributions to candidates.

However, the Fair and Clean Elections Campaign (FACE) is a proposed bill that would full public funding for state campaigns. Because you need this information so soon, I'm just providing the text to one of our informational pamphlets on Clean Elections. This literature was put together after 1993, so any criticisms of the current campaign finance system are directed at Minnesota's partial public funding model. I hope this will provide the information you're looking for.

The Imbalance of Power

Money is distorting and subverting our political process, causing monied interests to have extraordinary access and influence over government policy. The proof of this influence is evident everywhere in the kinds of policies developed by our government.

In 1996, health care interests gave \$94,000 to Minnesota legislative leaders in the DFL party and \$77,000 to Minnesota legislative leaders in the Republican party, through their legislative caucus political committees. Citizen efforts that year to pass strong new health care protections were successfully opposed by health care industry lobbyists.

Minnesota political parties received \$259,540 from banking and finance in 1996. Several bills have since been introduced to curb or eliminate ATM costs, but none have been allowed to come to a floor vote.

It has become all too commonplace to find that the powerful forces have made significant investments in politics, investments that certainly appear to tilt the public policy playing field in their favor.

Former Minnesota State Representative Don Ostrom describes the influence of big money on legislative decisions in the following way: "It seems in both parties certain well-heeled forces that don't necessarily have popular support have their way at critical points in the legislative process. Sometimes it happens on very public issues ... [and] on other issues it happens very quietly, such as when anti-tobacco legislation just disappears at critical points."

Our Common Issue

Every time citizens exercise their right to influence public policy they are battling the balance of power, and fighting entrenched interests. Whatever the issue--housing, employee rights, a clean environment, resources for schools and children, access to health care or any aspect of corporate accountability--as citizens we are always struggling against the same problem:

Those who contribute the most money to candidates, political parties and legislative caucuses have a disproportionate amount of influence over what policies becomes law.

Political and legislative leaders cannot help but consider the sources of this money when they decide which candidates to support or which bills to hear, as well as during other critical junctures in the legislative process. Political parties, legislative caucuses and candidates spend so much time raising money that they inevitably spend much of their time with, and therefore listening to, contributors. The larger the contributor, the more eagerly they are cultivated and the more loudly they are heard, at the expense of the rest of us. Dollars have become more important than people.

Voters are fed up with an electoral system in which their voices are drowned out by large contributors. Those who benefit the most from this system claim that political contributions are simply a form of free speech. But our "free" speech is limited by our ability to pay.

The Clean Money/Clean Elections Solution

For several years now MAPA has researched the impact of big money in Minnesota politics and options for reform. Our goal is to make our political system more accountable to the voters and therefore, more truly democratic. We believe that an important step toward this end is to create a campaign finance system that is based on the following principles:

1. People should have access to elected officials because they vote, not because they pay.
2. Candidates should raise issues, not money.
3. The strength of parties, candidates, and interest groups should come from numbers of supporters, not numbers of dollars.
4. Your voice should really make a difference.
5. The solution is comprehensive and simple:
6. In order for our government to better serve the interests of the public, elections of government officials must be financed by the public.
7. Candidates and elected officials must have the freedom to consider a broad range of ideas, and to make decisions and take action in the public interest without regard to repercussions on future campaign funding. In order for the government to belong to us, we must be willing to pay for it.
8. The best mechanism for achieving such comprehensive and fundamental reform is the creation of a new system which:
 - Provides candidates with the option of full public funding if they agree to forego nearly all private contributions;
 - Places limits on the size of contributions individuals and PACs can give to political parties and legislative caucuses;
 - Reduces unfair advantages caused by independent expenditures; and
 - Encourages grassroots participation in the political process.

Together We Can Make It Happen

Clean Money Campaign Reform is taking hold around the country. In states as different as Arizona, Massachusetts, Maine and Vermont, citizen coalitions have passed clean elections reforms. In Minnesota, we can too.

Support is strong among all sectors of the public and across the political spectrum. Minnesotans want a political system that allows candidates to raise issues, not money; that bases the strength of parties, candidates and interest groups on numbers of supporters, not dollars; that provides access to the political system to voters, not donors; that gives the average citizen a chance to be heard.

Full public funding of campaigns would be real reform

By Bruce Miller

Laterally, I feel a bit like a Las Vegas resident being asked how Vegas citizens were able to curb gambling. Since I once directed a Minnesota campaign-finance reform organization, I am often asked how Minnesota managed to enact reforms that limited the power of big money. I would have to answer the question the same in either scenario. Just as Las Vegas never curbed gambling, neither has Minnesota really limited the impact of big money in politics.

This question comes up more and more frequently as our Wisconsin Legislature considers SB 104, a bill for 45 percent funding of state campaigns based in large part on the Minnesota model. (The Senate may vote as early as Tuesday on the bill.)

Minnesota has been seen as an oasis of campaign finance reform because it provides about 50 percent financing to candidates accepting spending limits. Yes, Minnesota can proudly point to a number of *procedural* advances: More than 90 percent of candidates agree to spending limits; it fosters many more contested elections; and campaigns tend to be more focused on grass-roots activity than TV ads.

But Minnesota's image as a center of reform is much more mirage than miracle when it comes to citizens tri-

In Arizona and Maine, two states with virtually 100 percent public funding of campaigns, qualified candidates who aren't rich are able to run and win. Once in office, these state legislators are free from any financial dependence on special interests, and are able to enact far-reaching legislation aimed at helping the average citizen. Special-interest clout has been severely weakened.

umphing over special interests.

Big money still rules decisively in Minnesota. A 1997 report by Minnesota Alliance for Progressive Action found that "though partial funding has helped candidates without access to money run for office, it has not significantly reduced the influence of big money interests."

While its procedural achievements are important, the Minnesota system is still fundamentally flawed. Major problems include:

- ◆ The lion's share of funding still comes from a tiny circle of special interests: large individual givers (at least \$200), PACs, and other party units provided 64 percent of all contributions to candidates in the 1996 cycle.

- ◆ Candidates with the most money still win elections about 79 percent of the time.

- ◆ Special interests continue to gain most of their key policy objectives at the expense of the vast majority of Minnesotans.

Among the casualties of special-interest power under the partial-public reform system: a strong patient-protections bill; savings on prescription drugs for consumers; financial support for public schools; help for family farmers; tax fairness (commercial and industrial taxes were lightened *permanently* while homeowners got a one-time rebate), and protections against ATM overcharges.

- ◆ Special interest clout is publicly subsidized. That is, the 50 percent public support leaves candidates still primarily dependent on special-interest sources to raise the balance of the funds they need. Under this system, special interests can, in effect, purchase influence at a discount.

After recognizing these and other fundamental flaws, Minnesota reformers have realized that a sound campaign finance system must do more than simply regulate and subsidize special-interest money: it must

replace it with clean, public-interest money. That's the "Clean Money" model of virtually 100 percent public funding that Arizona and Maine have implemented, and Massachusetts and Vermont voters have also approved.

In very sharp contrast to Minnesota, the results from Arizona and Maine show tangible changes in results. Qualified candidates who aren't rich are able to run and win. Once in office, these state legislators are free from any financial dependence on special interests, and are able to enact far-reaching legislation aimed at helping the average citizen, like Maine's new drug-pricing laws. Special-interest clout has been severely weakened.

As a Wisconsin resident, I hope our legislators, panicky after recent scandals, take the time to carefully look at all models of reform instead of grabbing the nearest "cure." In particular, the Wisconsin Clean Money Bill (AB 295/SB 137) deserves serious consideration by those serious about ending the domination of big money.

Miller is a real estate agent in Hayward. While living in Minnesota, he was director of Common Cause and co-chaired that state's Fair and Clean Elections Campaign.

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PROPOSED POSITION PAPER

February 19, 2002

Two hundred years after the Constitution guaranteed our rights to free speech, the US Supreme Court ruled that money spent on political campaigns was equivalent to the expression of free speech. This ruling opened the flood-gates so now those with money dominate free speech. Is contributing money to campaigns an equally legitimate form of participation, alongside voting and volunteering, even though not everyone has the means to do it and most do not make contributions. Corporate backed candidates have easier time raising money than people backed candidates.

FUNDING OF CAMPAIGNS

There are many concepts for financing campaigns; providing no public funds, partial public funds or full public funds. Our present system results in practically all private funding due to the lack of adequate incentives because our present spending limits and the rate of public funding are too low.

Obviously, if campaigns are fully privately funded, the probability of special interest influence on public policy or corruption is very high. Sen. Dole said, "People who give money to campaigns expect more than good government". Sen. Ellis, author of the current bill SB 104 said, "Public policy should be determined on merits".

Partial public funding results in partial private funding that could lead to partial special interest influence on public policy or partial corruption.

Full public funding of elections is the only system that eliminates legalized bribery and should not be compromised. Many legislators are strongly opposed to public financing because the present system got them elected and reelected. In the 2000 election, only 2 incumbents of the 106 running lost. In the Assembly, 38 races were uncontested and another 35 races were uncompetitive (winner received more than 60% of the vote). In the Senate, of the 16 seats, 5 were uncontested and 6 were not competitive. Polls have shown a huge majority of the people favor full public funding of statewide races.

To qualify for public funds, a candidate must obtain a certain number of signatures accompanied by a \$5 contribution. The candidate may also raise a small amount of seed money that will be deducted from the spending limit. To provide an incentive for

accepting these qualifying conditions, public funds and the spending limits, those candidates will receive additional public funds to match any spending over the limits by their opponent.

According to the watchdog Wisconsin Democracy Campaign, the contributors of \$1,850,000 to the governor and \$1,600,000 to legislators received legislation that provided a return of \$819,000,000. If full public funding were substituted for private contributions and only 10 % of the items benefiting special interest contributors were eliminated, \$81,900,000 would be available to reduce the budget or reduce the waiting list for people needing help to stay in their home rather than a Nursing Home at considerably higher cost.

Recommendation: FULL PUBLIC FUNDING FOR STATE ELECTIONS

- ☐ Full public funding eliminates corruption and the appearance of corruption.
- ☐ Full public funding restores the public's faith in the election process and reduces public cynicism
- ☐ Full public funding engages people in the election process.
- ☐ Full public funding provides financial help to encourage good candidates to participate in the primary election.
- ☐ Full public funding saves taxpayers many times the cost of public funding when the influence of money is eliminated from policy making.
- ☐ Full public funding eliminates the time, energy, record keeping and expense of fund raising.
- ☐ Full public funding eliminates the spending arms race.
- ☐ Full public funding with low spending limits minimizes short radio and TV ads, which are conducive to negative, and distorting images.
- ☐ Full public funding enables candidates to spend more time to study and articulate issues.
- ☐ Full public funding enables candidates to participate in debates and forums instead of fundraisers.
- ☐ Full public funding eliminates confusion over who, where or when contributions may be made.
- ☐ Full public funding eliminates accumulation of war chests.
- ☐ Election campaigns should be independent of special interests, fair for the candidates, educational for the public, and simple to administrate.

SOURCE OF FUNDS

Elections are one of the most important functions of government and should be adequately funded from General Purpose Revenue. A check-off system does not provide enough money and is a poor indication of support for public funding. We do not have a check-off for funding other important government functions.

Recommendation: PROVIDE A "CLEAN ELECTION FUND" FOR PUBLIC FINANCING OF POLITICAL CAMPAIGNS

SPENDING LIMITS

Spending Limits should be adequate to run a good campaign. Full public funding will eliminate the need to spend money on fund raising which can run from 25% to 50% of the spending limit depending on the type of district. To provide an incentive for accepting the spending limits, those candidates will receive limited additional public funds to match spending over the limits by their opponent. Matching funds should be constitutional since it provides money for more speech.

Recommendation: DOUBLE CURRENT SPENDING LIMITS

- ❑ Current spending limits are \$17,250 for the Assembly and \$34,500 for the Senate. Doubling and adding the savings due to elimination of fund raising costs increases the effective spending limits to \$48,000 - \$69,000 for the Assembly and be \$96,000 - \$138,000 for the Senate, more than enough to run a good campaign.
- ❑ Low spending limits will encourage candidates to participate in more discussion of the issues through public debates and forums and less on misleading TV ads.
- ❑ Less money will be required with the advent of e-mail and web pages.
- ❑ When candidates know there is a spending limit, an arms race becomes unnecessary.
- ❑ All spending by candidates shall be disclosed to verify legitimacy.

QUALIFYING FOR A GRANT

To obtain public funding candidates must exhibit strong and committed public support. Once qualified, candidates for primary elections should receive some public funds.

Recommendation: PROVIDE PUBLIC FUNDS TO VIABLE CANDIDATES

- ❑ Full public funding shall be provided up to spending limits
- ❑ Raise private seed money: up to \$1,000 for Assembly, \$2,000 for Senate, and \$45,000 for Governor, to be deducted from the spending limits.
- ❑ Obtain a number of nomination signatures from constituents, half of which should be accompanied by a \$5 contribution: $300 \times \$5 = \$1,500$ for Assembly, $600 \times \$5 = \$3,000$ for Senate and $13,500 \times \$5 = \$67,500$ for Governor
- ❑ After qualifying for the grant, candidates will receive 1/3 of the spending limit for the primary election
- ❑ Provides the means for candidates to be competitive in primary elections.

INDEPENDENT EXPENDITURES

Recent years have shown an explosion in the use of advertising by groups trying to influence elections. "Advocacy" ads clearly show the support for or opposition against a candidate. The law already requires anyone using Advocacy ads to register and disclose

sources of money. However, "Issue" ads that camouflage the intent of support or opposition to a candidate are not required to register and disclose sources of money.

**Recommendation: TREAT ISSUE ADS THE SAME AS ADVOCACY ADS
WITHIN 60 DAYS OF AN ELECTION**

- ❑ If a clean money candidate is a target of such ads, the candidate receives matching funds up to three times the amount of the original grant.
- ❑ Require contemporaneous reporting of independent expenditures

CONCLUSION

The Citizens' Panel on Clean Elections Option stated, "The Panel has reached consensus that only complete public financing would free candidates and public officers from the time-consuming and compromising activity of fundraising and free them to be independent agents in the best interest of all citizens. The objective is citizen control of elections at the state level.

In order to return the elections back to the people, we have to change the culture of how campaigns are run. Now, when a person considers running for office, the first question is, "how much money can you raise?" rather than, "what is your position on the issues?" We can and should generate a culture change regarding elections by doing the following:

- ❑ Develop an expectation by voters to have clean and fair campaigns and react against candidates and independent groups that escalate the cost of elections and try to drown out each other
- ❑ Convince people that full public financing is much less costly than the policies created by big money interests.
- ❑ Advise voters that full public financing of the campaign will cost less than \$5 per year per taxpayer
- ❑ Promote the idea of candidates' voluntary acceptance of the prescribed limits
- ❑ Develop public opinion against candidates that do not accept public funding and spending limits
- ❑ Promote the need and desirability for substantive debates of the issues
- ❑ Develop an atmosphere for the debates so people will want to listen
- ❑ Provide incentives to maximize discussion of the issues and minimize misleading TV and radio ads
- ❑ Provide incentives for independent groups to participate in debates rather than one sided negative ads
- ❑ Develop an awareness so people will want to participate in the election

The following was taken from a book, MONEY AND POLITICS by David Donnelly, Janice Fine and Ellen S. Miller published by Beacon Press, 1999.

BASIC PRINCIPALS TO GUIDE REFORM EFFORTS

COMPETITION - Reform must enhance electoral competition. It must encourage qualified Americans of diverse backgrounds and points of view, regardless of their economic means, to seek public office.

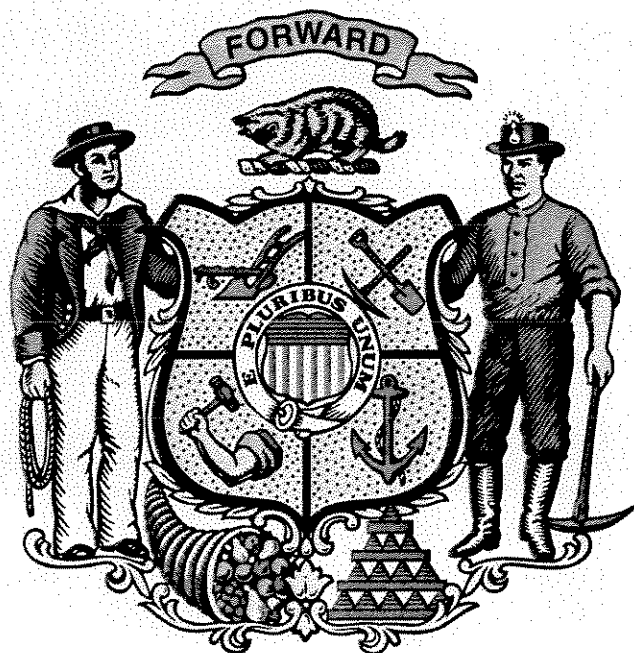
ACCOUNTABILITY - Reform must increase government accountability and restore public confidence in government. It must eliminate the conflicts of interest created by private financing of the election campaigns of our public officials.

FAIRNESS - Reform must guarantee fairer and more equal representation for all citizens. The views of all citizens must be taken into account in the public policy making process irrespective of their ability to make campaign contributions.

RESPONSIBILITY - Reform must stop the perpetual money chase. Elected officials should be attending to the people's business - meeting with constituents, attending important meetings and researching current policy options - not lounging with large donors.

DELIBERATION - Reform must begin the process of reinvigorating public participation in our democracy. It must reinstate public elections and legislative debate as forums for deliberation about how best to address the most pressing issues of the day.

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Common Cause In Wisconsin

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Assembly Bill 801

Assembly Bill 801, introduced in the Assembly by Rep. David Travis is the companion legislation to Senate Bill 104, authored primarily by Sen. Mike Ellis. It has been endorsed by Common Cause In Wisconsin and many other organizations and individuals as well as by a majority of State Senate Republicans, all State Senate Democrats, and almost all Assembly Democrats. It has the backing of Wisconsin's leading newspapers. It is legislation that contains some of the most revolutionary, sweeping and innovative campaign finance reform provisions to be proposed in the entire nation. Its passage and enactment into law would do much to reduce the influence of big, special interest money that has skewed our elections and corrupted our public policy-making process and restore integrity to Wisconsin's now tarnished reputation.

Assembly Bill 801/Senate Bill 104:

* Fully funds with general purpose revenue (GPR) public grants equal to 45 percent of the revised spending limits to a candidate who agrees to abide by those limits. (Current law provides for public grants of 45 percent of much lower spending limits and which are funded solely through the \$1 checkoff on the state income tax form which has not provided anywhere near adequate funding to fully fund public grants for many years). Senate Bill 104 raises the \$1 dollar checkoff to \$5 and then "fills in" any revenue shortfall generated from the checkoff with GPR. In addition, a partisan check-off option would be available in order to direct the \$5 designation to the political party candidate of choice or to the Wisconsin Election Campaign Fund.

* Provides to a candidate who complies with the statutory spending limit a dollar for dollar match from GPR for every dollar raised by his or her opponent over the spending limit. This revolutionary provision is in place nowhere else in the nation for legislative elections and in Kentucky for gubernatorial contests only. It has been upheld by the Courts as being constitutional.

(-OVER-)

- * Provides a candidate who complies with the statutory spending limit a dollar for dollar match from GPR for every dollar spent by an independent expenditure organization or individual (above a certain threshold—which is 10 percent of the spending limit) against the complying candidate or in support of the complying candidate's opponent. This provision is in place nowhere else in the nation in this form but has been held constitutional in Maine where it is in place in a more limited form. This provision would likely end or discourage extensive spending by outside interest groups on costly television and radio ads who now engage in running independent expenditures and phony issue ads.
- * Provides a complying candidate who is the "victim" of an issue ad which depicts the name or likeness of a candidate within 60 days of the general election and 30 days of the primary election with the same benefit as those who are the victim of an independent expenditure (above a certain threshold—which is 10 percent of the spending limit). It would require the organization making the issue ad expenditure to disclose the amount of the expenditure (but not the source) for the purpose of making a GPR match of the amount.
- * Candidates in receipt of a fully funded public grant would be precluded from receiving any committee (political action committee) money and non-complying candidates would be limited in the amount of committee money that they can accept.
- * Legislative Campaign Committees, which are controlled by legislative leaders and are currently the repositories of a great deal of special interest money, are treated as regular committees (PACs).
- * Candidates seeking public funding must demonstrate substantial support for their candidacy within their own district (or from a county from within the district) by raising 50 percent of the qualifying money (in contributions from individuals of \$100 or less) and the other 50 percent must come from within Wisconsin. Currently, qualifying funds can come anywhere in the nation.
- * All campaign fund raising by incumbents would be prohibited from the time the Governor introduces the state budget bill until it is signed by the Governor into law. Currently, incumbents can raise campaign funds at any time.

* * *